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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,953	03/25/2004	Russell Berger	S032 P00864-US1	6353

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EXAMINER

SHAFFER, RICKY D

ART UNIT PAPER NUMBER

2872

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/808,953

Applicant(s)

BERGER, RUSSELL

Examiner

Ricky D. Shafer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06/21/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-8 recites the limitation "the mirror housing" in claims 4-8, line 1. There is insufficient antecedent basis for this limitation in the claims.

Claim 10 recites the limitation "the fastening strap" in claim 10, line 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 11-13 recite the limitation "the connector means" in claims 11-13, line 1. There is insufficient antecedent basis for this limitation in the claims.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Cossey ('572).

Cossey discloses a mirror assembly for viewing a child sitting is a rear-facing child seat positioned on a vehicle seat having a seat back and a head rest with a gap there between, comprising a base plate (26) removably connected to the head rest (the top portion of the rear seat); a mirror (24) adjustably connected to the base and means (26b) for mounting the base in

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communication with the head rest and the seat back over the gap (the indentation between the top portion (head rest) of the rear seat and lower portion (seat back) of the rear seat). Note figures 1 and 2 along with the associated description thereof.

4. Claims 1-3 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Nielsen et al ('572).

Nielsen et al discloses a mirror assembly for viewing a child sitting in a rear-facing child seat positioned on a vehicle seat having a seat back and a head rest with a gap there between, comprising a base [(18) or (18')] removably connected to the head rest (80), a mirror (12) adjustably connected to the base plate, a mirror housing (14), means [(19b,84) or (85a,85b)] for mounting the base in communication with the head rest and the seat back over the gap (the distance between the head rest of the rear seat and the seat back of the rear seat), a fastening strap (84,85a,85b) extending from the base plate, wherein the fastening strap includes a first end and an opposing second end for looping the strap around the head rest and connector means (strap clips, not shown) for coupling first and second ends of the strap together (see column 7, lines 3-9). Note figures 2, 3B, 4, 7A and 7B along with the associated description thereof.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nielsen et al ('572).

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To the extent the claims are definite, Nielsen et al discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that base includes a variety of different geometric shapes.

It would have been obvious to modify the shape of the base plate of Nielson et al to include any one of the numerous geometric shapes already specified by Nielson et al in column 4, lines 52-59 in order to obtain an aesthetic (ornamental) appealing mirror assembly, since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of one of ordinary skill in the art.

Note In re Dailey et al , 149 USPQ 47 and In re Seid, 73 USPQ 431.

As to the limitations of claim 9, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the base of Nielson et al to include a foam pad, as is well known in numerous analogous arts, in order to protect the head rest from possible damage.

7. Claim 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nielsen et al ('572) in view of Monahan et al ('708).

To the extent the claims are definite, Nielsen et al discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the connector means comprises male and female connectors.

Monahan et al et al teaches it is well known to use connectors having male and female connectors, wherein each of the male and female connectors include a slotted buckle in the same field of endeavor for the purpose of fastening one end of a strap to another end of a strap so as to attach a mirror to an object.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the strap clips of Nielsen et al to include male and female connectors, as taught by Monahan et al, in order to obtain a secured fastening assembly which can be easily removed when the mirror is not needed.

As to the limitations of claim 10, although not explicitly shown, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the one or more brackets of the base of Nielson et al to include slots for receiving each of the nylon straps routed there through, as is well known in the art, in order to provide for a snug fastening mechanism.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nielsen et al ('572) in view of Lumbra et al ('347).

To the extent the claim is definite, Nielsen et al discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the connector means comprises fastening hooks and loops.

Lumbra et al teaches it is well known to use connectors having fastening hooks and loops (VELCRO) in the same field of endeavor for the purpose of fastening one end of a strap to another end of a strap so as to attach a mirror to an object.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the strap clips of Nielsen et al to include fastening hooks and loops (VELCRO), as taught by Lumbra et al, in order for rapid removal of said mirror from the head rest when not needed.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RDS

June 23, 2005


RICKY D. SHAFER
PATENT EXAMINER
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